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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,344	03/01/2004	Leon Robert Cuvelier	758.1603US01	2415
7590 09/06/2005			EXAMINER	
Merchant & Gould P.C.			EDGAR, RICHARD A	
P.O. Box 2903			ART UNIT	
Minneapolis, MN 55402-0903			PAPER NUMBER	
			3745	
DATE MAILED: 09/06/2005.				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/791,344

Applicant(s)

CUVELIER ET AL.

Examiner

Richard Edgar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10 and 14 is/are rejected.
- 7) ☒ Claim(s) 1 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/28, 6/24 &amp; 5/13</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

### ***Drawings***

The drawings are objected to because the legend in Fig. 14 uses a white bar for each Lp value, whereas the bar chart seems to show one of the Lp values partially shaded. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,880,813 (Yazici et al. hereinafter).

Yazici et al. show in Figs. 2-3 and 8, a silencer comprising: first and second body sections spaced from each other to define a gas flow path 54 therebetween; the first body section including a base 46, sidewall, and an upper wall; the upper wall having a center region with a concave wall 66/70 smoothly sloping downwardly terminating at the sidewall; the base, sidewall and upper wall together forming a first body section interior volume; a first region of packing material 76 being within the interior volume and pressed against the base, sidewall and upper wall; the second body section having a second body section base, outer sidewall 42-45, inner sidewall 56 and upper wall; the second body section base, outer sidewall, inner sidewall, and upper wall together

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defining a second body section interior volume; the second body section having a center aperture; the inner sidewall 56 lining the center aperture; a second region of packing material 78 being within the second body section interior volume; the upper wall 66 center region of the first body section projecting into the center aperture of the second body section; and the upper wall of the first body section and the second body section inner sidewall and the second body section base together define the gas flow path 54.

The silencer further comprises a frame 80 including an outer tubular housing 82 with an inner volume 88; the second body section being secured to the frame with the outer tubular housing extending through the second body section center aperture; the first body section being oriented relative to the frame arrangement such that the center region of the upper wall extends into the inner volume of the outer tubular housing (see Fig. 3).

Each of the first and second body sections comprise steel (see col. 5, lines 58-61).

The recitation “for a gas turbine air intake system” (claim 4) has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

A fan 20 is disclosed and is supported by the wall 58 and located within an inner volume defined by the tubular housing 82.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6,880,813 (Yazici et al. hereinafter) as applied to claim 4 above, and further in view of United States Patent No. 3,820,629 (Carlson et al. hereinafter).

Yazici et al. teach that fiberglass batts 76/78 should be used for sound attenuation in the air guiding members. Yazici et al. however, do not specify if the fiberglass should be protected with a film.

Carlson et al. teach that a sound attenuation system comprising a batt 34 of fiberglass should be covered with a protective film 35 for the purpose of extending the life of the batt 34 by protecting it from moisture (see column 3, lines 31-39).

Since Yazici et al. teach fiberglass batts for sound attenuation, and Carlson et al. teach that sound attenuating fiberglass batts should be protected with a film, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fiberglass batts of Yazici et al. to have a protective film there over, as taught by Carlson et al. for the purpose of protecting it from moisture.

Claims 8-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6,123,751 (Nelson hereinafter) in view of United States Patent No. 6,880,813 (Yazici et al. hereinafter).

Nelson et al. show a gas turbine air intake system and method of directing air therethrough, comprising a frame 21; a plurality of filter elements 42 supported by the frame 21; the filter elements having an upstream portion and a downstream portion; the upstream portion of the filter elements being located in a dirty air plenum 34, and the downstream portion of the filter elements 42 being located in a clean air plenum 36; a reverse-pulse cleaning system 52; and a hopper 32.

Nelson et al. do not teach a fan and silencer arrangement supported by the frame.

Yazici et al. show in Figs. 2-3 and 8, a silencer comprising: first and second body sections spaced from each other to define a gas flow path 54 therebetween; the first body section including a base 46, sidewall, and an upper wall; the upper wall having a center region with a concave wall 66/70 smoothly sloping downwardly terminating at the sidewall; the base, sidewall and upper wall together forming a first body section interior volume; a first region of packing material 76 being within the interior volume and pressed against the base, sidewall and upper wall; the second body section having a second body section base, outer sidewall 42-45, inner sidewall 56 and upper wall; the second body section base, outer sidewall, inner sidewall, and upper wall together defining a second body section interior volume; the second body section having a center aperture; the inner sidewall 56 lining the center aperture; a second region of

packing material 78 being within the second body section interior volume; the upper wall 66 center region of the first body section projecting into the center aperture of the second body section; and the upper wall of the first body section and the second body section inner sidewall and the second body section base together define the gas flow path 54. A fan 20 is disclosed and is supported by the wall 58 and located within an inner volume defined by the tubular housing 82. Yazici et al. utilize a fan and silencer for the purpose of attenuating the noise of matter drawn out of an apparatus.

Since Nelson et al. teach to draw material out of an apparatus and Yazici et al. teach that a fan and silencer should be used to help draw out the material and attenuate the noise, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the apparatus of Nelson et al. so that a fan and silencer surround the hopper for the purpose of attenuating the noise of matter drawn out of the turbine.

#### ***Allowable Subject Matter***

Claims 7 and 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7 and 12-13 each require the hopper include a plurality of chambers having a region of packing material therein. Nelson et al. only show a hopper and does not teach nor suggest modifying the hopper to have chambers therein with packing material therein as is claimed.



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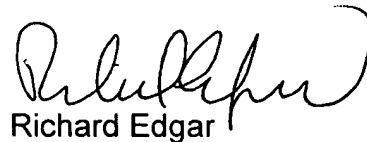
Claim 11 requires, among other things, the gas to flow from the external atmosphere, through the silencer and to the relatively dirty air plenum. This claimed gas flow is contrary to the exhaust flow teachings of the cited references, and there is no suggestion outside applicants' disclosure for modifying any of the reference to create a gas flow originating in the exhaust components.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7 am- 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Edgar  
Examiner  
Art Unit 3745

RE